

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA**

TERRY FAISON WILLIAMS and LOUIS T. FAISON, SR.	:	
	:	CIVIL ACTION NO. 1:12-64
Plaintiffs,	:	
	:	(JONES, D.J.) (MANNION, M.J.)
v.	:	
	:	
UNITED STATES OF AMERICA,	:	
	:	
Defendant.		

REPORT AND RECOMMENDATION¹

Pending before the court are plaintiff Terry Faison Williams' motion for leave to proceed *in forma pauperis* (Doc. No. [2](#)) and plaintiff Louis T. Faison, Sr.'s motion to appoint counsel. (Doc. No. [5](#)). For the reasons set forth below, the court will recommend that plaintiff's motion to proceed *in forma pauperis* be **GRANTED**, the motion for counsel be **DENIED**, and the complaint be **DISMISSED with prejudice**.

I. BACKGROUND

Terry Faison Williams filed the instant complaint on January 11, 2012,

¹ For the convenience of the reader of this document in electronic format, hyperlinks to the Court's record and to authority cited herein have been inserted. No endorsement of any provider of electronic resources is intended by the Court's practice of using hyperlinks.

as a wrongful death action pursuant to the Federal Torts Claims Act (“FTCA”). Ms. Williams filed the instant action due to the alleged wrongful death of her father, Louis T. Faison, Sr., whom she also names as a plaintiff to this complaint.

Ms. Williams attempted to file the same action previously. See 4:11-CV-00395 (Jones, J.). The action was dismissed by Judge Jones on August 5, 2011, based on Ms. Williams’ lack of standing. The Memorandum and Order dismissing that action are attached to the instant report and recommendation. Ms. Williams is attempting to re-litigate that action. She is barred from doing so by the doctrine of *res judicata*. The proper course of action is to appeal the August 5, 2011, decision. In fact, it appears from the docket that she currently has an appeal of that case pending before the Third Circuit.

Plaintiff’s motion to appoint counsel² is moot, as the instant action is proceeding as an appeal of 4:11-CV-00395 via USCA case number 12-1112.

II. RECOMMENDATION

For the reasons set forth above, **IT IS RECOMMENDED THAT,**

²As a result, we will not address the inappropriateness of Ms. Williams signing the name of her deceased father in her motion.

- (1) Plaintiff's Motion for Leave to Proceed *in forma pauperis* be **GRANTED;**
- (2) Plaintiff's Motion to Appoint Counsel Be **DENIED;**
- (3) The complaint be **DISMISSED WITH PREJUDICE.**

s/ Malachy E. Mannion

MALACHY E. MANNION
United States Magistrate Judge

Date: March 9, 2012.

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